

ANTOINE SHOCKLEY,  
  
Plaintiff,  
  
v.  
  
VINCENT CARR, et al.,  
  
Defendants.

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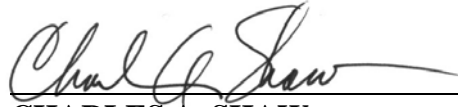
No. 4:10-CV-889 CAS

The Court will not permit plaintiff to amend the complaint as requested because it would be futile to do so. First, the complaint is duplicative of an earlier-filed action that was dismissed under 28 U.S.C. § 1915(e), Shockley v. St. Louis Police Department, 4:09-CV-394 CAS (E.D. Mo.). As such, the complaint is dismissible. Cooper v. Delo, 997 F.2d 376, 377 (8th Cir. 1993). Second, the

facts alleged in the complaint occurred more than five years ago; so they are barred by the statute of limitations. Sulik v. Taney County, Mo., 393 F.3d 765, 766-67 (8th Cir. 2005); Mo. Rev. Stat. § 516.120(4) (2000). Third, the Court ordered plaintiff to pay an initial partial filing fee no later than June 28, 2010. Plaintiff has not paid the fee. So even if the Court were to allow plaintiff to file an amended complaint, the Court would dismiss this action for failure to prosecute under Rule 41. For each of these reasons, the Court will deny plaintiff's motion.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion to amend the complaint and in opposition to dismissal is **DENIED**. [Doc. 6]

  
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**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 6th day of July, 2010.